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DISTRICT OF UTAH

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WESLEY THOMPSON  
PRO SE~~PO BOX 350~~ 1225 W. VALLEY VIEW  
~~DRAPER, UT. 84020~~ LOGAN, UT. 84321IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH CENTRAL DIVISIONWESLEY THOMPSON,  
PETITIONER,

V.

DONALD TRUMP, PRESIDENT  
OF U.S.A., SCOTT CROWTHER,  
WARDEN OF UTAH STATE  
PRISON, KEITH HOLDER,  
MICHAEL GEORGE, MELVIN  
COULTER, ERIC LUDVINGSON  
EMPLOYEE'S FOR CENTRAL UTAH  
CORRECTIONAL FACILITY, DEFENDANTSMIXED PETITION FOR  
REDRESS OF DEPRIVATION AND  
POST-DEPRIVATION REMEDY  
(28 U.S.C. § 1343 (2)(3))  
(28 U.S.C. § 1360)  
(42 U.S.C. § 1983)

U.S. DISTRICT COURT

Case: 1:18-cv-00111

Assigned To : Stewart, Ted

Assign. Date : 9/6/2018

Description: Thompson v. Trump, et al

A. JURISDICTION

1. PLAINTIFF, WESLEY THOMPSON, IS A CITIZEN OF CALIFORNIA, WHO PRESENTLY RESIDES AT THE UTAH STATE PRISON, 14425 BITTERBRUSH LANE, DRAPER, UT. 84020

2. DONALD TRUMP IS A CITIZEN OF THE UNITED STATES OF AMERICA, AND PRESENTLY RESIDES AT THE WHITE HOUSE. THIS DEFENDANT IS CURRENTLY RESPONSIBLE FOR THE LAWS GOVERNING THE LAND

3. SCOTT CROWTHER IS A CITIZEN OF UTAH AND THIS DEFENDANT IS CURRENTLY RESPONSIBLE FOR THE POLICY AND PROCEDURES GOVERNING UTAH STATE PRISON

4. DEFENDANTS KEITH HOLDER, AND MICHAEL GEORGE ARE CITIZENS OF UTAH AND WAS EMPLOYED AS FACILITATIVE OFFICERS AT THE CENTRAL UTAH

CORRECTIONAL FACILITY. AT THE TIME THE CLAIMS IN THIS COMPLAINT AROSE, THESE DEFENDANTS WERE ACTING UNDER COLOR OF STATE LAW, AND ARE DIRECTLY RESPONSIBLE INDIVIDUALLY FOR THE WRONGFUL ACTIONS HEREIN.

5. MELVIN COULTER IS A CITIZEN OF UTAH AND WAS EMPLOYED AS A CLASSIFICATION REVIEW OFFICER AT THE CENTRAL UTAH CORRECTIONAL FACILITY. THIS DEFENDANT WAS ACTING UNDER COLOR OF STATE LAW, AND IS DIRECTLY RESPONSIBLE INDIVIDUALLY FOR THE WRONGFULL ACTIONS HEREIN.

6. ERIC LUDVINGSON IS A CITIZEN OF UTAH AND WAS EMPLOYED AS A HOUSING OFFICER AT THE CEDAR HOUSING UNIT FOR CENTRAL UTAH CORRECTIONAL FACILITY. THIS DEFENDANT WAS ACTING UNDER THE COLOR OF STATE LAW AND IS DIRECTLY RESPONSIBLE INDIVIDUALLY FOR THE WRONGFULL ACTIONS HEREIN.

7. JURISDICTION IS INVOKED PURSUANT TO 28 U.S.C. §1343 (a)(3); 28 U.S.C. §1366; AND 42 U.S.C. §1983; PLUS RULES GOVERNING POST-DEPRIVATION AND FAILURE TO RULE ON MERITS.

B. NATURE OF CASE  
FOR REDRESS OF DEPRIVATION

8. IN 2004 A PROCEDURE DEFAULT BY WAY OF 42 U.S.C. §1997 e (a) WAS ENACTED.

9. ON OR ABOUT JUNE 2006 A JUDGE MADE PROCEDURE DEFAULT WAS SO AFFIRMED BY THE SUPREME COURT OF THE UNITED STATES NO. 05-416 REGARDING THE ALRA § 1997 e(2) STATUTE.

10. ON THE NIGHT OF AUGUST 5<sup>TH</sup> 2011, THE PLAINTIFF WAS BRUTALLY RAPED TWICE BY HIS CELLMATE.

11. DURING THE NEXT FEW MONTHS THE PLAINTIFF ATTEMPTED TO EXHAUST THE ADMINISTRATIVE PROCESS TO NO AVAIL.

12. ON MARCH 14<sup>TH</sup> 2016 JUDGE CLARK WADDOWS DISMISSED THE PLAINTIFFS ACTION, WITH OUT HEREING THE MERITS, FOR FAILURE TO EXHAUST. CASE NO. 2:12-CV-00680-CW

13. ON MARCH 20<sup>TH</sup> 2017 10<sup>TH</sup> CIRCUIT JUDGES KELLY, HARTZ AND O'BRIEN AFFIRMED THE DISMISSAL

14. BECAUSE OF EMOTIONAL TRAMA AND PHYSICAL TRAMA FROM THE INCIDENT, AND FOR FEAR FROM PRECEIVED THREATS FROM INMATES AND OFFICERS THE PLAINTIFF SHOULD BE ENTITLED TO EQUITABLE TOLLING.

15. UTAH DEPARTMENT OF CORRECTIONS HAS COMPLETE CONTROL OVER WHETHER THEY WANT TO

BAR AN INMATE FROM REDRESS OF COURT BY NOT ALLOWING INMATES TO GRIEVE

16. THE PRISON LITIGATION REFORM ACT HAS DIRECTLY AND EFFECTIVELY CREATED A CONFLICT WITH THE FIRST AMENDMENT.

C. NATURE OF CASE  
FOR POST-DEPRIVATION

17. ON OR ABOUT JUNE 2011, PLAINTIFF INFORMED DEFENDANT HOLDER THAT IT WAS TIME FOR HIS YEARLY REASSESSMENT. PLAINTIFF INDICATED THAT DUE TO RECEIVING A LOWER SECURITY SCORE HE WAS ELIGIBLE FOR A CHANGE IN HIS BEHAVIOR CODE (AIMS) FROM A KAPPA TO SIGMA. AND EXPLAINED THE CHANGE WAS APPROVED BY CHAPTAN WALK. DEFENDANT HOLDER FAILED TO INITIATE THE CHANGE.

(SEE POLICY AND PROCEDUR; DECLARATIONS FROM THOMPSON, CHAPTAN WALK, HOLDER.)

18. JULY 18 2011 PLAINTIFF WAS MOVED FROM HICKORY HOUSING TO CEDAR 327T, WITH A SECURITY SCORE CHANG- FROM 2 TO 3. PLAINTIFF DID NOT APPEAL THE SECURITY SCORE CHANGE.

(SEE THOMPSON'S PHYSICAL LOCATION HISTORY AND REASSESSMENT.)

19. PLAINTIFF CONTACTED HIS NEW CASE MANAGER DEFENDANT GEORGE AND REQUESTED HE INITIATE

THE BEHAVIOR CODE CHANGE FROM KAPPA TO SIGMA.  
DEFENDANT GEORGE SAID HE WOULD LOOK INTO IT.  
THEY DECIDED NOT TO MAKE THE CHANGE.

(SEE DECLARATION FROM THOMPSON AND GEORGE)

20. PLAINTIFF THEN INITIATED HIS EXHAUSTION  
REQUIREMENTS BY WRITING TO AND RECEIVING  
A DENIAL FROM MELVIN COULTER THE CLASSIFICATION  
REVIEW OFFICER.

(SEE DENIAL LETTER)

21. THE PRISON FAILED TO ALLOW THE PLAINTIFF  
TO PARTICIPATE IN THE CLASSIFICATION PROCESS  
WHICH RESULTED IN ERROR WITHIN BOTH HIS  
CORRECTIONAL ADJUSTMENT LIFE HISTORY AND  
HIS CORRECTIONAL ADJUSTMENT CHECK LIST  
WHICH IS USED TO CALCULATE HIS BEHAVIOR CODE.  
WHICH COULD HAVE BEEN FIXED HAD THERE BEEN  
MORE PROCEDURE.

(SEE CACL, AND CACH, AND THOMPSON'S  
DECLARATION)

21) PLAINTIFF COULD HAVE SHOWN HE FITS WITHIN  
THE SUB-CLASS OF INMATES IDENTIFIED WITHIN THE  
PRISON RAPE ELIMINATION ACT WHICH WOULD ENSURE  
HE WOULD BE HOUSE AWAY FROM KAPPA'S (AWAY  
FROM THE PERSON WHO RAPE MANY PEOPLE INCLUDING

THE PLAINTIFF.

(SEE POLICY AND PROCEDURE: DECLARATION OF THOMPSON, CRIMINAL HISTORY OF RUDY ROMERO, PHYSICAL LOCATION HISTORY)

22. ON JULY 22 2011 THE PLAINTIFF WAS MOVED FROM CEDAR 327T TO CEDAR 302T WITH INMATE RUDY ROMERO, THIS MOVE WAS MADE BY ERIC LUDVIGSON.

(SEE PHYSICAL LOCATION HISTORY)

23. DURING THE CONVERSATION OVER THE INCELL-COM THE PLAINTIFF TOLD ERIC LUDVIGSON HE WAS IN FEAR TO LIVE WITH RUDY ROMERO BECAUSE THE ROMMERS OF HIS HOUSE TO OTHER INMATES, AND WAS THREATEND TO BE SENT TO MAXIMUM SECURITY HOUSING IF HE DID NOT MOVE.

(SEE INTERCOM RECORDING)

24. PLAINTIFF WAS RAPED TWICE ON THE NIGHT OF AUGUST 5<sup>TH</sup> 6<sup>TH</sup> 2011 BY RUDY ROMERO.

(SEE INCIDENT REPORT, WITNESS STATEMENTS DNA EVIDENCE)

25. THE PLAINTIFF REQUESTED A SAFTY BE PLACED AGAUST ROMERO BUT WAS NEVER INITIATED, UNTELL THOMPSON REACHED OTHER OFFICERS SOME TWO YEARS LATER IN 2013

(SEE SAFTY ENTERED IN O-TRACT)

C. DEFENDANTS ARE NOT ENTITLED TO QUALIFIED IMMUNITY

26. DEFENDANTS KNEW OR SHOULD HAVE KNOWN INMATE ROMERO WAS A RISK TO PLAINTIFF IN THAT ROMERO HAD THE POTENTIAL AND HISTORY TO FORCE HIMSELF ON HIS CELL MATE WITH THE INTENTION OF HAVING ANAL SEXUAL INTERCOURSE.

(SEE ROMERO'S CRIMINAL HISTORY AND INSTITUTIONAL HISTORY)

27. DEFENDANTS VIOLATED THE PLAINTIFFS RIGHTS AND ACTED WITH TOTAL DISREGARD FOR THE PLAINTIFFS SAFTY AND SECURITY. FURTHER, DEFENDANTS ACTED WITH MALICE AND DELIBERATE INDIFFERENCE AND SET PLAINTIFF UP TO BE RAPED BY THERE ACTIONS OF HOUSING PLAINTIFF WITH A KNOWN SEXUAL PREDATOR WITHIN THE PRISON AND BY NOT FIXING PLAINTIFFS BEHAVIOR CODE WHICH WOULD HAVE GARUNTEED PLAINTIFF WOULD NOT BE ABUSED WITH VIOLENT OFFENDERS. THIS FURTHER SUBJECTED PLAINTIFFS' HEALTH AND WELL-BEING TO AN OBJECTIVE RISK OF HARM WHO THEY KNEW WOULD CONTINUE ABUSIVE BEHAVIOR.

28. WHEN A DEFENDANT INTENTIONALLY WITH DELIBERATE INDIFFERENCE KNEW OR SHOULD HAVE

KNOWN THAT THEY WERE SUBJECTING THE PLAINTIFF TO A DANGEROUS AND UNSAFE CONDITION DUE TO THEIR FAULTY CLASSIFICATION SYSTEM AND AS A RESULT OF DENYING PLAINTIFF'S PARTICIPATION IN THE AIMS DECISION AND BY PLACING HIM IN THE CELL, DEFENDANTS ACTED INDIVIDUALLY AND NOT IN THEIR OFFICIAL CAPACITY WHEN THEY PUNISHED PLAINTIFF BY HOUSING HIM WITH A VIOLENT OFFENDER.

#### ACTUAL KNOWLEDGE OF RISK

(SEE) (MEDICAL RECORDS OF THOMPSON'S RAPE)  
(IR 1'S, IR 2'S (ICR) OF REPORTED ASSAULTS AT CUCF) (RR'S CRIMINAL RECORD) (R.R.S. INSTITUTIONAL HISTORY) (THOMPSON'S CRIMINAL RECORD) (THOMPSON'S PHYSICAL PROFILE) (RECORDING OF CELL INTERCOM) (DEPOSITION OF THOMPSON) (DEPOSITION OF CHAPMAN WALK) (CACL/CALH) (PSYCHIATRIST'S ASSESSMENT OF THOMPSON)

#### FAILED TO ABATE THE RISK

(SEE) (MADE THOMPSON MOVE TO CELL BY THREAT)  
(THE RAPE ITSELF) (INADEQUATELY CLASSIFIED THOMPSON)  
(FAILED TO SEGREGATE RR BASED ON HIS VIOLENT HISTORY)  
(REPORTING OFFICER TOLD THOMPSON TO GO BACK TO HIS CELL AFTER HE REPORTED THE RAPE)

#### SUBSTANTIAL RISK OF SERIOUS HARM

THERE IS OBJECTIVELY SERIOUS HARM BECAUSE THE RAPE ITSELF. CUCF IS KNOWN TO HAVE A HISTORY OF PRISONER ASSAULTS. RR HAS A LONG HISTORY OF PREDATORY ASSAULTIVE BEHAVIOR IN BOTH HIS CRIMINAL AND INSTITUTIONAL DISCIPLINARY HISTORIES. THOMPSON BELONGS TO AN IDENTIFIABLE INMATE SUB-CLASS THAT IS OFTEN SIGNALLED OUT FOR PRISON VIOLENCE; - A CHILD SEX OFFENDER - YOUNG, SMALL, WEAK. HAS A HISTORY OF BEING ABUSED (DOCUMENTED). TOLD ERIC LUDVINGSON HE DID NOT WANT TO LIVE WITH RR BECAUSE HE FELT THERE WAS A RISK OF BEING ABUSED, SIGMA'S ARE NOT ALLOWED TO BE HOUSED WITH KAPPAS.



## PROCEDURAL DUE PROCESS

### LIBERTY INTEREST

RAPE IS AN ATYPICAL AND SIGNIFICANT HARDSHIP  
THOMPSON WAS RAPED TWICE BY A CELL MATE  
HE SHOULD NOT HAVE BEEN HOUSED WITH,

### MORE PROCEDURE

THOMPSON WAS NOT INCLUDED IN HIS AIMS  
CLASSIFICATION PROCESS, HIS INPUT AND PARTICIPATION  
COULD HAVE FOUND AND FIXED THE ERRORS WHICH  
WOULD HAVE CHANGED HIS CLASSIFICATION AND HE  
WOULD NOT HAVE BEEN HOUSED WITH ROMERO  
THOMPSON'S PSYCHOLOGICAL REPORTS SHOULD HAVE BEEN  
USED BUT WERE NOT, AND THOMPSON NEVER RECEIVED  
HIS OWN COPIES OF THE AIMS REPORTS.

### D. INJURIES FOR REDRESS

29. PLAINTIFF DID NOT RECEIVE A RULING ON THE  
MERITS OF HIS CASE THAT WAS DISMISSED.

### E. INJURIES FOR POST- DEPRIVATION

30. PLAINTIFF SUFFERED RECTAL BLEEDING,  
HEMORRHOIDS, BLOOD IN STOOL AND ANAL  
SCRATCHES THAT EXTENDED INTO THE PLAINTIFFS  
RECTUM. PLAINTIFF ALSO HAD TO HAVE HIS BLOOD  
DRAWN 3 TIMES OVER A SIX MONTH PERIOD,  
CAUSING BRUISING AND SORENESS THAT EXTENDED  
MORE THAN 3 DAYS IN THE AREA THE BLOOD  
WAS DRAWN.

31. FURTHERMORE, PLAINTIFF SUFFERED THE HUMILIATION  
AND EMOTIONAL TRAUMA BY BEING FORCED AND  
VIOLATED BY INMATE ROMERO

32. PLAINTIFFS MENTAL INJURIES ARE DEEP AND

LONG STANDING.

E. CAUSE OF ACTION FOR  
REDRESS OF DEPRIVATION

33. PLAINTIFFS FOLLOWING CONSTITUTIONAL RIGHTS, PRIVILEGES, OR IMMUNITIES HAVE BEEN VIOLATED, AND THAT THE FOLLOWING FACTS FORMS THE BASIS FOR THE DEPRIVATION:

COUNT I: PLAINTIFFS FIRST AMENDMENT RIGHT OF ACCESS TO THE COURT TO PETITION THE GOVERNMENT FOR REDRESS OF GRIEVANCES IS VIOLATED BY THE APPLICATION OF THE FEDERAL COURTS IMPOSING A SANCTION, OF WAIVER OR PROCEDURAL DEFAULT TO THE PLRA'S 1997 e(a) STATUTE, AND GIVES PRISON OFFICIALS COMPLETE CONTROL OVER WHETHER THEY WANT TO BAR AN INMATE FROM REDRESS OF COURT BY NOT ALLOWING INMATES TO FILE A GRIEVANCE. THIS STATUTE ALSO EFFECTIVELY LIMITS A FOUR YEAR STATUTE OF LIMITATIONS TO 7 DAYS. AS A DIRECT RESULT PLAINTIFF HAD HIS CASE DISMISSED WITHOUT HIS MERITS BEING HEARD.

COUNT II: THE PLAINTIFFS SIXTH AMENDMENT RIGHT TO EQUAL PROTECTION UNDER THE LAW ARE VIOLATED BECAUSE THE CONSTITUTION GUARANTEES THAT INMATES, LIKE ALL CITIZENS

HAVE A REASONABLE ADEQUATE OPPORTUNITY TO RAISE CONSTITUTIONAL CLAIMS IN FRONT OF IMPARTIAL JUDGES, BUT THE PLAINTIFF HAS BEEN DENIED A RULING ON THE MERITS OF HIS CASE

G. CAUSE OF ACTION FOR  
POST-DEPRIVATION

34. THE PLAINTIFF ALLEGES THE FOLLOWING CONSTITUTIONAL RIGHTS, PRIVILEGES OR IMMUNITIES HAVE BEEN VIOLATED AND THAT THE FOLLOWING FORM THE BASIS FOR THE ALLEGATIONS:

COUNT I: PLAINTIFFS FIFTH AND FOURTEENTH AMENDMENT RIGHT TO DUE PROCESS OF LAW HAS BEEN VIOLATED BY DEFENDANTS ACTIONS BY NOT ALLOWING PLAINTIFF A MEANINGFUL CLASSIFICATION PROCESS TO POINT OUT ERROR AND SUPPORT A CHANGE OF HIS BEHAVIOR CODE, TO A SIGMA.

COUNT II: PLAINTIFFS EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT HAS BEEN VIOLATED BY DEFENDANTS ACTIONS IN THAT THEY DELIBERATELY WITH MALICE AND TOTAL DISREGARD FOR PLAINTIFFS SAFETY AND WELL-BEING PLACED PLAINTIFF IN A CELL WITH INMATE ROMERO, WHO THEY KNEW, OR SHOULD HAVE KNOWN WOULD LIKELY RAPE HIM,

H. REQUEST FOR RELIEF  
WHEREFORE PLAINTIFF REQUESTS FOR THE  
FOLLOWING RELIEF:

A) TRIAL BY JURY

B) COUNSEL BE APPOINTED TO REPRESENT THE  
PLAINTIFF IN THIS ACTION.

C) CREATE AN END TO THE CONFLICT BETWEEN  
THE 42 USC. § 1997 e(a) STATUE AND THE FIRST  
AMENDMENT OR REPEAL THE 42 USC. § 1997 e  
(a) STATUE.

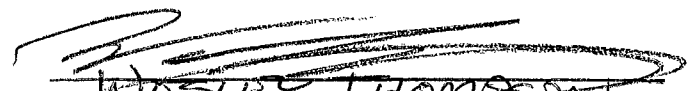
D) GRANT A TRIAL BY JURY ON THE MERITS  
OF THE "G. CAUSE OF ACTION" IN THIS COMPLAINT.

E) GRANT COMPENSATORY, AND PUNITIVE  
DAMAGES IN THE AMOUNT OF \$2,000,000.00  
(TWO MILLION DOLLARS)

F) ISSUE A PERMANENT INJUNCTION ORDERING  
PRISON OFFICIALS TO CHANGE THEIR POLICY TO  
ALLOW INMATES TO GRIEVE EXCEPTIONAL REASONS.

G) GRANT PLAINTIFF EQUITABLE TOLLING.

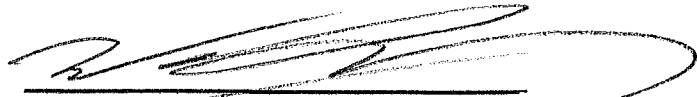
8-22-18  
DATE

  
WESLEY THOMPSON  
PRO SE

CERTIFICATE OF MAILING

I do hereby certify that a true and correct copy of the foregoing was mailed, postage pre-paid, to the ~~Attorney General's Office, at 160 East 300 South, 6<sup>th</sup> Floor, Salt Lake City, Utah~~ U.S. DISTRICT COURT 351 S. WEST TEMPLE

~~84114~~ on this 22 day of AUGUST, 2014. ~~2018~~



WESLEY THOMSON  
PRO SE

- \* PETITION
- MOTION TO APPOINT COUNSEL
- REQUEST TO SERVE PROCESS
- APPLICATION FOR IN FORMA PAUPERIS